

HOUSE BILL No. 1859

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; P.L.100-2000, SECTION 1.

Synopsis: Rules to implement Medicaid waiver. Requires the office of the secretary of family and social services to adopt rules to implement the adult foster care and assisted living Medicaid waiver. Allows the office to adopt emergency rules to implement the waiver on an emergency basis. Requires the office to adopt standards that an entity must meet to provide services under the waiver.

Effective: Upon passage.

Crawford

January 17, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1859

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.273-1999,
2 SECTION 160, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies
4 to a rulemaking action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107

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and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcoholic beverage commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

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(22) An emergency rule adopted by the office of the secretary of family and social services to implement a Medicaid waiver for adult foster care, assisted living, or adult day care services.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be

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adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

⊕ (i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. P.L.100-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) The office of the secretary of family and social services shall develop and submit to the federal Health Care Financing Administration proposals to do the following:

(1) Fund adult foster care and assisted living services through the Medicaid waiver program.

(2) Expand adult day care services available through the aged and disabled Medicaid waiver.

(b) The proposals under subsection (a) must be reviewed by the community and home options to institutional care for the elderly and disabled (CHOICE) board established under IC 12-10-11 before the proposals are submitted to the federal Health Care Financing Administration regarding the following:

(1) The definitions of adult foster care and assisted living.

(2) The number of individuals to be served by each waiver.

(3) The schedule of services to be delivered to individuals served by each waiver.

(4) Consumer eligibility standards established for each waiver.

(5) The means for expanding adult day care services.

(6) The number of individuals to be served by expanded adult day care services.

(7) Administrative oversight standards for each waiver described in this SECTION.

(c) The office of the secretary of family and social services must receive input from affected providers and consumers when drafting the language of applications for Medicaid waivers described in this SECTION.

(d) The office of the secretary of family and social services may submit the proposals described in this SECTION to the federal Health

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Care Financing Administration as amendments to existing waivers.

(e) The proposals described in this SECTION must be submitted to the federal Health Care Financing Administration before October 1, 2000.

(f) The office of the secretary of family and social services shall report to the legislative council, the governor, and the CHOICE board before January 1, 2001, regarding implementation of the provisions of this SECTION.

(g) The office of the secretary of family and social services may not implement a waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(h) If the office of the secretary of family and social services receives a waiver under this SECTION from the federal Health Care Financing Administration and the governor receives the affidavit filed under subsection (g), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(i) The office of the secretary of family and social services shall adopt standards that an entity must meet in order to provide services under a waiver required by this SECTION.

(j) The office of the secretary of family and social services shall approve an entity that meets the standards described in subsection (i).

(k) The office of the secretary of family and social services shall adopt rules under IC 4-22-2 to implement the waiver required by this SECTION.

(l) The office of the secretary of family and social services may adopt emergency rules under IC 4-22-2-37.1 to implement the waiver required under this SECTION on an emergency basis.

(m) This SECTION expires January 1, ~~2002~~: 2006.

SECTION 3. An emergency is declared for this act.

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